**HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH**

**R.S.A No.3607 of 2006 (O&M)**
**Date of decision : 19.02.2007**

**Joginder Singh** **.....Appellant**

**versus**

**Gram Panchayat and others** **.....Respondents**

**CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA.**

Present : Mr.P.S.Goraya, Advocate for the appellant.

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**ORDER**

**HEMANT GUPTA, J.**

**C.M.No.9058-C of 2006**

For the reasons mentioned in the application, the delay of 11 days in filing the appeal is condoned subject to all just exceptions.

**R.S.A.No.3607 of 2006.**

The plaintiff is in second appeal aggrieved against the judgment and decree passed by the Courts below, whereby the suit for declaration filed by the plaintiff to the effect that the plaintiff and his brother are owner in possession of the property in dispute, was dismissed holding that the jurisdiction of the Civil Court is barred in terms of Section 13 of the Punjab Village Common Land (Regulations) Act, 1961 (hereinafter referred to as the Act).

The plaintiff has claimed ownership over the suit land, whereas, the defendant Gram Panchayat asserts that being the shamlat deh, the panchayat is owner of the suit land and has a right over the street i.e. the subject matter of the dispute.

Both the Courts below have returned a concurrent finding of fact that the jurisdiction of the Civil Court is barred as there is dispute over a street which is claims to be vested with the Panchayat.

Learned counsel for the appellant has referred to a judgment of this Court, "***Basakhi Ram versus Suresh Kumar, 1998 (3) R.C.R. (Civil)-175",*** to contend that Civil Court has the jurisdiction to try and entertain such a suit. However, the said judgment is not applicable in the facts of the present case as in the said case, the suit was for permanent injunction simpliciter wherein the street was sought to be constructed through the Sehan. In the present case, the plaintiff has sought declaration to the effect that a particular piece of land is owned by the plaintiff and not by the Panchayat. The Panchayat has claimed the said land to be vested with the Panchayat as being a shamlat deh. In respect of the said question, the jurisdiction of the Civil Court is barred under Section 13 of the Act.

Consequently, I do not find any illegality or irregularity in the findings recorded by the Courts below which may give rise to any substantial question of law for consideration of this Court in second appeal.

Dismissed.

However, it is open to the plaintiff-appellant to seek his appropriate remedy before the competent Court of law and jurisdiction.

**(HEMANT GUPTA)**
**JUDGE**

**February 19, 2007**
**mohinder*